

EXHIBIT No. 9

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE WESTERN DIVISION
 Abingdon Division

4 KYMBERLY HOBBS, ADMINISTRATOR OF THE ESTATE
5 OF CHARLES JAMES GIVENS, DECEASED,

6 Plaintiff,

7 v. Civil Action No. 1:23-cv-00003

8 ANTHONY RAYMOND KELLY, et al.,

9 Defendants.

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VIDEOCONFERENCED

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DEPOSITION UPON ORAL EXAMINATION

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OF TRAVIS J. POSTON

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TAKEN ON BEHALF OF THE PLAINTIFF

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July 30, 2024

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JACQUELINE N. BENNETT, RPR, Court Reporter

Halasz Reporting & Video

1 Q. So every day that he -- you said that if
2 the officer knew about it, they should call down,
3 they should get other officers to take him out, take
4 him down to the shower. And then I asked you if
5 that was written down, and you said "not necessarily
6 but it occurs all the time."

7 So when Mr. Givens was taken to the
8 shower in the middle of the winter just about every
9 night -- or he's soiling himself every night, are
10 you saying there's many circumstances that are not
11 being logged in in the log book where he's being
12 taken down to the shower?

13 A. I was saying that not every time he was
14 took out for the shower, it was logged in the log
15 book.

16 Q. All right.

17 A. The officer would call -- the officers
18 would call and notify another supervisor if they had
19 to get somebody out, and it was during the hours
20 that inmates wasn't supposed to be out.

21 Q. So on all of those times when
22 Mr. Givens -- the six times that he's taken out to
23 medical -- I mean, to the emergency department for
24 hypothermia, the officers may or may not log whether
25 or not they took him to the shower in the middle of

1 the night; is that right?

2 MS. WALLACE: Form.

3 A. Depending on what time it was he was
4 taken to medical for -- or taken out, as you said,
5 to go, yes.

6 Q. But, sir, that's not my question to you.
7 My question to you -- and I want to just focus on
8 the questions so we can get done this afternoon --
9 is that your testimony is that when he's taken out
10 to the shower in the middle of the night in the dead
11 of winter for a shower, it's not necessarily put in
12 the log book, right?

13 A. At times, it wasn't. You got it. At
14 times, it wasn't necessarily put in the log book.

15 Q. So let's record. You're saying that
16 he's peeing or poop -- defecating on himself every
17 night. You have an obligation --

18 A. I didn't say every night. I said he did
19 it every day.

20 Q. Every day.

21 A. I'm sorry. I interrupted you.

22 Q. So he's peeing and pooping during the
23 daytime, but he's not necessarily doing that at
24 night?

25 A. I didn't say that, either.

1 Q. Well, how --

2 A. A day is 24 hours. He does it every
3 day.

4 Q. All right. I see what you're saying.

5 So in a 24-hour period, you would expect
6 Mr. Givens to urinate and/or defecate on his clothes
7 at least once, right?

8 A. At some time during that day. It could
9 have been during the day shift or it could have been
10 during the night shift. At some time during that
11 day, he used the bathroom on himself.

12 Q. All right. So Mr. Givens is being taken
13 regularly down to the shower in the middle of the
14 night in the winter. You would agree with that,
15 right?

16 MS. WALLACE: Form.

17 A. I can't say he went every night, no.

18 Q. I didn't say every night. Regularly.
19 You would agree that he's regularly being taken down
20 there, right?

21 MS. WALLACE: Form.

22 A. I agree regularly every day he -- he
23 went and got a shower because he used the bathroom
24 on himself.

25 Q. All right. Well, when he's taken back